

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**RYAN DEAN HEATH,**

**Defendant.**

**No. CR 09-2003**

**REPORT AND RECOMMENDATION**

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On the 20th day of March 2009, this matter came on for hearing on the Motion to Suppress (docket number 14) filed by the Defendant on March 5, 2009. On March 23, 2009, however, Defendant filed a Notice of Intent to Enter Guilty Plea (docket number 25). Defendant intends to enter a conditional plea of guilty pursuant to FEDERAL RULE OF CRIMINAL PROCEDURE 11(a)(2).

In his notice of intent to enter a conditional guilty plea, Defendant preserves his right to appeal

(1) the legal and instructional issue of whether a mistake of age defense is available to a charge under 18 U.S.C. § 2251(a) and (e), as alleged in Count I of the Indictment, (2) his sentence and (3) other usual and customary findings reserved for appeal in plea agreements.

*See* Defendant's Notice of Intent to Enter Guilty Plea (docket number 25). Significantly, Defendant does not preserve his right to appeal any issues raised in his motion to suppress. Accordingly, Defendant has waived those issues. *United States v. Smith*, 422 F.3d 715, 724 (8th Cir. 2005).

***RECOMMENDATION***

It is respectfully recommended that the Motion to Suppress (docket number 14) filed by the Defendant on March 5, 2009 be denied as moot.

The parties are advised, pursuant to 28 U.S.C. § 636(b)(1), that within ten (10) days after being served with a copy of this Report and Recommendation, any party may serve and file written objections with the District Court.

DATED this 24th day of March, 2009.



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JON STUART SCOLES  
UNITED STATES MAGISTRATE JUDGE  
NORTHERN DISTRICT OF IOWA